

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	2056.04
COMPLAINT INVESTIGATOR:	Sally Cook
DATE OF COMPLAINT:	September 15, 2003
DATE OF REPORT:	October 15, 2003
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	November 19, 2003

**COMPLAINT ISSUES:**

Whether the Plainfield Juvenile Correctional Facility and the Indiana Department of Correction violated:

511 IAC 7-27-9(b) and (c) by failing to afford students with cognitive disabilities the opportunity to participate in physical education with nondisabled students.

511 IAC 7-27-4(c) by failing to utilize the case conference committee (CCC) to:

- a. revise the individualized education programs (IEPs) when classes were changed from half-day to full-day programs;
- b. revise the IEPs of those students with cognitive disabilities who were unilaterally placed in a separate physical education class; and
- c. determine participation in the state assessment program and related classes.

**FINDINGS OF FACT:**

1. This Complaint was filed on behalf of unnamed students between the ages of 3 and 22 who are eligible for special education and related services and who are currently placed by court orders at a state-operated juvenile correctional facility (Facility).
2. During the course of the investigation, it was clarified that the Letter of Complaint did not allege that the Facility established, or proposed to establish, a separate physical education class exclusively for students with cognitive disabilities. The proposed recreational program will schedule groups of students with disabilities and groups of nondisabled students at the same time, in the same recreational program. The Facility does not consider its recreation program to be a component of its education program.
3. Various changes in the educational program of the Facility have been proposed as a part of a comprehensive treatment program for incarcerated youth. These changes include, but are not limited to, lengthening the school day from 3 hours to 4.5 hours and adding an ISTEP+ remediation/preparation class. As of the date the Complaint was filed, none of the proposed changes has been implemented. The proposed treatment program remains in draft form. If approved, program changes are scheduled to take effect in November 2003.

**CONCLUSIONS:**

1. Finding of Fact #2 indicates that students with cognitive disabilities are not denied the opportunity to participate in physical education with nondisabled students. Therefore, no violation of 511 IAC 7-27-9(b) or (c) occurred.
2. Finding of Fact #3 indicates that proposed program changes that might require reconvening case conference committee meetings have not yet been adopted or implemented. Therefore, no violations of 511 IAC 7-27-4(c) have occurred.

**DISCUSSION:**

The state complaint procedure, under 511 IAC 7-30-2, is not available to address possible violations of federal or state laws that apply to special education programs, when the alleged violations have not yet occurred. The Indiana Department of Education, Division of Exceptional Learners, responds to requests for technical assistance and responds in writing to letters of concern. These responses are separate and distinct from the state complaint procedure.

**The Department of Education, Division of Exceptional Learners requires no corrective action based on the Findings of Fact and Conclusions listed above.**